IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO.6905 of 2005

Between:

M.Mahendra Naik S/O Arya Naik,

Sarpanch, Venkatapur village, Mahaboob Nagar

Mandal and District.

..... PETITIONER

AND

1. The Government of Andhra pradesh, Rep., by the Secretarry, Panchayat Raj Department, Secretariat, Hyderabad.

2. The Commissioner, Panchayat Raj, Andhra Pradesh, Hyderabad.

3. The District Collector, Mahaboob Nagar District, Mahaboob Nagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus declaring the proceedings No.A2/1388/2004 dated 02.03.2005 of the District Collector, Mahaboob Nagar removing the petitioner from the post of Sarpanch an consequential order issued in Proceedings No.A2/1388/2004 dated 2.3.2005, in ordering recovery from the petitioner is arbitrary and illegal and conterary to the provisions of the Panchayat Raj Act and consequently direct the respondents to continue the petitioner as Sarpanch of Venkatapuram Village, Mahaboobnagar Mandal and District.

Counsel for the Petitioner: MR.A.Nagender Rao

Counsel for the Respondents: G.P. for Panchayat Raj and Rural Development.

The Court at the stage of admission made the following :

ORDER:

The petitioner is the Sarpanch of Venkatapuram Grama Panchayat. This writ petition is filed challenging the order dated 02.03.2005 passed by the third respondent under Section 249(1) of A.P.Panchayat Raj Act, 1994 (for short "the Act"), removing the petitioner from the office of the Sarpanch and the consequential order passed by the third respondent on the same day i.e., on 02.03.2005 under Section 265 of the Act directing the petitioner to pay a sum of Rs2,14,143/- towards the alleged misappropriation of funds of the Grama Panchayat.

It is not in dispute that as against the orders passed under Sections 249(1) and 265 of the Act, appeal lies to the Government under Sections 249(7) and 265(3) of the Act, respectively.

The petitioner states that he has already preferred two separate appeals against the impugned orders dated 02.03.2005 along with applications seeking stay of the said proceedings before the first respondent. The grievance of the petitioner is that the first respondent failed to consider the appeals preferred by him and no orders have been passed even on his applications for stay, and in the meanwhile, the respondents are taking steps to implement the impugned orders. Hence this writ petition.

Having heard learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development, appearing for the respondents and keeping in view the fact that the petitioner has already preferred statutory appeals and the same are pending before the second respondent, I am of the view that it would be appropriate to direct the respondents to maintain status quo till the applications for stay filed by the petitioner in the appeals are disposed of.

Accordingly, the writ petition is disposed of with a direction to the respondents 1 & 2 to dispose of the applications for stay filed by the petitioner in his appeals filed under Sections 265(3) and 249(7) of the Act, respectively, as expeditiously as possible, preferably within a period of two weeks from the date of receipt of this order. Till such orders are passed, the impugned orders dated 02.03.2005 shall not be given effect to. No costs.

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31.03.2005

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To

1. The Government of Andhra pradesh, Rep., by the Secretarry, Panchayat Raj Department, Secretariat, Hyderabad.

2. The Commissioner, Panchayat Raj, Andhra Pradesh, Hyderabad.

3. The District Collector, Mahaboob Nagar District, Mahaboob Nagar.

4. Two C.Cs to the G.P. for Panchayatraj and Rural Development, High Court Buildings, Hyderabad (OUT).

5. Two C.D.copies.